

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	) Chapter 11
	)
	) Case No. 21-10529 (DSJ)
NINETY-FIVE MADISON COMPANY, L.P.,	)
	)
Debtor.	)
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**DECLARATION OF MICHAEL SKLAR IN SUPPORT OF  
DEBTOR'S MOTION PURSUANT TO SECTIONS 105, 363, 365  
AND 1146 OF THE BANKRUPTCY CODE AND RULES 2002, 6004,  
6006 AND 9014 OF THE FEDERAL RULES OF BANKRUPTCY  
PROCEDURE FOR ENTRY OF AN ORDER (I) APPROVING THE  
SALE OF THE PROPERTY FREE AND CLEAR OF ALL LIENS,  
CLAIMS, ENCUMBRANCES AND INTERESTS (EXCEPT PERMITTED  
ENCUMBRANCES), (II) APPROVING THE ASSUMPTION AND  
ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED  
LEASES RELATED THERETO, AND (III) GRANTING RELATED RELIEF**

I, Michael Sklar, hereby declare under penalty of perjury:

1. I am the sole member of Michael Sklar Management LLC ("Michael Sklar Management"), a General Partner of Ninety-Five Madison Company, L.P. (the "Debtor"), the debtor and debtor-in-possession in the above-captioned Chapter 11 case (the "Chapter 11 Case")

2. I submit this declaration in support of the Debtor's *Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief* (the "Motion").<sup>1</sup>

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

## **I. The Property**

3. The Debtor is a New York limited partnership that was formed on June 1, 1982 pursuant to a limited partnership agreement.

4. The Debtor's current general partners (the "General Partners") are: (i) RAS Property Management, LLC, an entity owned by Rita Sklar and various trusts formed by her; (ii) Sharan Sklar Management LLC, an entity managed by Sharan Sklar; and (iii) Michael Sklar Management.

5. The Debtor is the fee simple and title owner of (i) the land and commercial building (the "Building") known as 89-95 Madison Avenue, New York New, York 10016 (the "Premises") and (ii) the personal property located at the Premises (together with the Premises, the "Property").

6. The Debtor provides full service commercial leases. The Building has only two tenants: (i) Lee and Low Books, which leases half of the twelfth floor of the Building; and (ii) Douglas Lister Architect, which leases an office on the twelfth floor of the Building.

7. The Property is encumbered by (i) a mortgage provided in connection with an exit financing term loan facility (the "Exit Facility") extended pursuant to that certain Secured, Super-Priority Debtor-in-Possession Loan and Security Agreement, dated November 4, 2023, by and among the Debtor, as borrower, and Madison Avenue Servicing LLC, as DIP lender (the "DIP Lender"). *See id.* ¶ 7. The Exit Facility has a maximum principal amount of \$23,000,000. *See id.* As of February 14, 2024, the effective date of the Plan, the Debtor had drawn approximately \$17,000,000 from the Exit Facility.

## **II. The Chapter 11 Case**

8. On March 22, 2021 (the “Petition Date”), the Debtor commenced the Chapter 11 Case because it was facing liquidity challenges, legal judgments, and litigation expenses caused by years of prepetition litigation with a former tenant, Vitra, Inc.

9. To address those issues, the Debtor initially planned to obtain exit financing that would be (i) secured by the Debtor’s interest in the Property and (ii) sufficient to pay all of the Debtor’s creditors in full.

10. Due to challenges posed by the ongoing COVID-19 pandemic and the sustained downturn in the commercial leasing market, however, the Debtor instead decided to pursue a sale or other disposition of the Property to an outside buyer.

11. Since the Petition Date, the Debtor has suffered significant operating losses that far exceed its limited revenues.

## **III. The Marketing Process and the Proposed Sale**

12. Beginning in 2022, the Debtor and its professionals embarked on a marketing process for a disposition of the Property.

13. To assist with this process, the Debtor retained Branton Realty Services LLC (“BRS”) as real estate broker and sales agent. Woody Heller has overseen the day-to-day management of the marketing process on behalf of BRS during the term of its engagement.

14. The Debtor also retained Fried, Frank, Harris, Shriver & Jacobson LLP as special real estate transaction and tax counsel to the Debtor to prepare a form Purchase and Sale Agreement for eventual execution by the Debtor and any purchaser of the Property. In addition, Rosenberg & Estis, P.C., which the Debtor had retained as special counsel in connection with documenting a financing of the Property, represented the debtor in all negotiations regarding

that certain Purchase and Sale Agreement, dated as of February 23, 2024 (attached to the Motion as **Exhibit B**, and as amended from time to time, including all schedules and exhibits, the “Agreement”).

15. The Debtor first conducted a “premarketing” process during which Mr. Heller informally gauged interest from potentially interested buyer groups, while marketing materials and expert reports were finalized for official open market promotion. Mr. Heller received inquiries from two types of potential buyer groups: (i) buyers that sought to convert the Property for residential use; and (ii) buyers that sought to maintain the Property for commercial office purposes.

16. In early 2023, the Debtor launched a formal marketing process. During this period, the Debtor officially listed the Property on the open market.

17. The Debtor received multiple non-binding bids for the Property. The Debtor engaged in several negotiations with various parties that failed to yield an actionable proposal.

18. The Debtor and the Purchaser (together, the “Parties”) subsequently engaged in arms-length, good faith negotiations, resulting in a purchase price of \$62,800,000 that was higher and better than any other proposal received by the Debtor. On February 21, 2024 the Parties finalized the Agreement. On February 23, 2023, the Sale was approved by a majority of the General Partners.

19. The proceeds from the Sale will enable the Debtor to satisfy all Allowed Claims and to repay the Exit Facility.

*[Signature on Following Page]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: March 1, 2024  
New York, New York

By: /s/ [Signature]  
Michael Sklar *Solo member Michael Sklar Management LLC et al*  
General Partner *7*  
**NINETY-FIVE MADISON COMPANY, L.P.**  
*Debtor and Debtor-in-Possession*